

Message Text

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21/13

ACTION EA-14

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FM AMEMBASSY TAIPEI

TO SECSTATE WASHDC IMMEDIATE 229

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E.O. 11652: NA

TAGS: TW, BDIS

SUBJECT: OLD DOMINION DAIRY DISPUTE

REF: A. STATE 222099; B. STATE 224539

1. OLD DOMINION HAS INFORMED US THAT THE TAIPEI DISTRICT COURT DISAGREED WITH OLD DOMINION'S CONTENTION THAT ITS DISPUTE WITH SINO-CANADIAN SHOULD BE SUBMITTED TO ARBITRATION IN NEW YORK, AND RENDERED A DECISION ON THE MERITS OF THE CASE, WHICH WENT AGAINST OLD DOMINION. THE TAIWAN HIGH COURT IS SCHEDULED TO HOLD A HEARING ON THE CASE TOMORROW, NOVEMBER 15.

2. THE CONTRACT BETWEEN SINO-CANADIAN AND OLD DOMINION(WE HAVE A COPY OF PERTINENT PAGE OF CONTRACT) REQUIRES ANY DISPUTE TO BE TAKEN BEFORE THE NEW YORK BOARD OF ARBITRATION. THE FCN TREATY (ARTICLE 6, SECTION 4) PROVIDES THAT WHERE "CONTROVERSY IS COVERED BY A WRITTEN AGREEMENT FOR ARBITRATION, SUCH AGREEMENT SHALL BE ACCORDED FULL FAITH AND CREDIT BY THE COURTS WITHIN THE TERRITORIES OF EACH HIGH CONTRACTING PARTY".

EMBASSY COULD APPROACH MOFA, EITHER FORMALLY OR INFORMALLY, TO CALL THEIR ATTENTION TO THE LANGUAGE OF THE CONTRACT AND THE FCN TREATY CONCERNING ARBITRATION, EXPRESS OUR OPINION THAT THE OLD DOMINION/SINO-CANADIAN CONTRACT AND THE FCN
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TREATY REQUIRE THAT ARBITRATION PROCEDURES BE FOLLOWED,

AND REQUEST MOFA TO LOOK INTO THE MATTER.

3. HOWEVER, AS DEPT IS AWARE, OLD DOMINION HAS BEEN INVOLVED IN CONSIDERABLE AMOUNT OF DECEPTION AS REGARDS ITS RELATIONSHIP TO SINO-CANADIAN, AND IS NOT RPT NOT HELD IN HIGH REGARD BY THE ROC. FURTHERMORE, WE HAVE JUST BEEN INFORMED BY SINO-CANADIAN'S PRESIDENT THAT THE OLD DOMINION/ SINO-CANADIAN CONTRACT CALLS FOR OLD DOMINION TO PAY TWENTY PERCENT OF ITS PROFITS ON ITS USG CONTRACT TO SINO-CANADIAN. IF THAT PROVES TO BE TRUE, IT CONSTITUTES A FURTHER MISREPRESENTATION TO THE EMBASSY BY OLD DOMINION AND, UNWITTINGLY, ON BEHALF OF OLD DOMINION, BY THE EMBASSY TO MOFA. IF THIS SHOULD COME TO THE ATTENTION OF MOFA, IT COULD CONSIDER THAT SUFFICIENT GROUNDS EXIST TO TERMINATE ALL RIGHTS AND PRIVILEGES WHICH OLD DOMINION HAS ENJOYED IN TAIWAN AS A USG CONTRACTOR. SUCH A DECISION COULD DISRUPT SUPPLY OF DAIRY PRODUCTS TO ALL U.S. FORCES ON TAIWAN, AN EVENTUALITY WHICH EMBASSY AND TDC STRONGLY DESIRE TO AVOID.

4. EMBASSY FEELS THAT REPRESENTATION TO MOFA COULD BE HIGHLY COUNTERPRODUCTIVE. WE HOPE WITHIN A DAY OR TWO TO HAVE TAIPEI DISTRICT COURT RULING AND FULL CONTRACT BETWEEN OLD DOMINION AND SINO-CANADIAN, WHICH SHOULD ENABLE US TO MAKE BETTER-INFORMED RECOMMENDATION. IN MEANTIME, EMBASSY RECOMMENDS THAT OLD DOMINION BE INFORMED OF POSSIBLE MOFA REACTION IF EMBASSY WERE TO MAKE REPRESENTATION. IF DECISION IS MADE TO MAKE REPRESENTATION, WE FEEL DEPARTMENT SHOULD HAVE OLD DOMINION STATEMENT IN WRITING THAT THEY UNDERSTAND RAMIFICATIONS AND WISH US TO SO PROCEED.
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